

MINISTRY OF JUSTICE

**INFORMATION
ON THE PROGRESS OF THE JUDICIAL REFORM PROCESS**

Skopje, 10 January 2007

I. DEVELOPMENT OF THE REFORM PROCESS

The process of reforms of the judicial system in Republic of Macedonia has been finalized with the adoption of the 2005 Amendments (*trans.comm: Constitutional Amendments*) and the remaining laws planned for 2006. This presents a solid base for realizing the final reform goals – strengthening the independence and impartiality, as well as increasing the efficiency of the judiciary.

The realization of the judicial reform continues in accordance with the Strategy for Reform of the Judicial System and the Action Plan for its implementation, with swift and appropriate activities for practical implementation of all newly adopted or amended and supplemented laws, showing visible results in the direction of strengthening the independence and increasing the efficiency of the court system, which will contribute to efficient realization of the citizens' rights guaranteed by the Constitution.

The Government of Republic of Macedonia, in its working programme, has foreseen intensive activities for implementing the laws, realizing the court reforms and finalizing the legal framework. The programme pays special attention to introducing an efficient system for protecting the society and rights and liberties of citizens from the most severe forms of crime and corruption.

In the optimal timeframes foreseen in the laws, many measures and actions have been undertaken so far.

II. INDEPENDENCE AND AUTONOMY OF THE JUDICIARY

In the field of strengthening the independence of the court system the following has been undertaken:

1. Implementation of the **Law on Judicial Council of Republic of Macedonia**

- On 15 November 2006 respecting the foreseen legal timeframe, by secret voting 8 judges were elected for members of the Judicial Council;
- The procedure for electing the remaining 5 members is initiated. Three members are nominated and elected by the Parliament and the other two are nominated by the President and elected by the Parliament;
- These members are to be elected without any delay so the Council can be established and exercises its authority;
- In a timeframe of 30 days from the election of the majority of members of the Judicial Council, and in accordance with article 29 of the Law, a constitutive session of the JC was held. This session was adjourned until the remaining 5 members of the JC are elected by the parliament of RM.

The JC has already commenced its work by preparing several regulations as:

- Rules of Procedure of the Judicial Council;
- Rulebook on the Procedure on Disciplinary Liability of Judges;
- Rulebook on the internal organization of the judicial service (court clerks) of the JC;
- Rulebook on the systematization of the clerks of the JC;

The members of the JC have started acting upon cases under their jurisdiction.

2. Implementing the **Law on Academy for Training Judges and Public Prosecutors**

The following measures and activities have been undertaken for practical implementation of this law:

- Election of the Director and Executive Director of the Academy is finished;
- The Managing Board and Administrative Council of the Academy are constituted;
- The Programmatic Council is in a phase of constituting;
- The rulebooks for organization and work and systematization of the posts are adopted;
- Training on foreign languages and IT skills is started;
- Programmes for initial training of the candidates for judges and prosecutors are in process of preparation, preparatory programme for members of the non-majority ethnic communities, as well as the programme for general and specialized professional development;

Soon the selection of educators for the Academy will be commenced and it is expected for the Academy to become operational and start the training for judges and prosecutors.

3. Implementing the **Law on Courts**

- The Law on Courts is applicable as of 1 January 2007.
- The **Instruction** for taking over the cases is prepared and published (*transl.comm.: referring to the instruction by MoJ published in OG 1/2007*)
- Other bylaws (14 rulebooks and decrees) are drafted – the adoption deadline is 1 July 2007.
- Activities for providing the premises for the new Administrative Court and the Appellate Court in Gostivar are undertaken. Also, activities for expanding the premises of the State Judicial Council are undertaken.

III. INCREASING THE EFFICIENCY

In the field of efficiency of the court system the following activities have been undertaken:

1. Implementation of the **Law on Enforcement**, which is applicable as of 26 May 2006.

- Eight by-laws have been adopted in the timeframe previously determined by law.
- The Minister of Justice formed a Commission for Conducting the Exam for Enforcement Agents
- There are 41 enforcement agents appointed, already operating and showing results on the territory of the basic courts in RM
- An advertisement for appointing 28 new enforcement agents is announced
- Up to date, 6800 enforcement requests have been received (56.2% by natural persons), of which 1981 (39.8%) are realized.
- A **Report** on the preliminary results of the implementation of the **Law on Enforcement** has been prepared.

2. Implementation of the **Law on Litigation** – applicable as of January 2006. Positive results have been made in terms of increasing the efficiency of the courts.

There is regular ongoing communication with the competent courts in order to follow the implementation of the Law. A Council for following the implementation is established and a form/template is drafted in order to provide data suitable for elaboration and analysis of the possible unsynchronized court practice among civil judges.

- According to the received preliminary data on duration of the procedures (for the period of 9 months in 2005 and 2006, the following conclusions were reached:
- In **civil cases** in 2006, the proportion of solved cases out of the total number of cases in process is 49.34% (for 2005 this number was 44.1%). This is 5% more than the previous year. Most of the cases (31.46%) are solved in a period no longer than 3 months.
- In **commercial cases** in 2006, the proportion of solved vs. total number of cases in process is 44.61% (for 2005 it was 46.36%). Most of the cases (35.82% in 2006 and 28.09% in 2005) are solved in a period of 3 months. It can be concluded that there is an increased number of solved cases, although the workload is increased.
- In **bankruptcy cases** there is a 22% increase of solved cases in relation to the total number of cases in process.

- It is expected that applying the new Law on Misdemeanor (of May 2006) will significantly decrease the number of unsolved cases.
- Two bylaws are in a process of drafting; the deadline for their adoption - 27 November 2006;
- In the following period of one year the state administration bodies will harmonize the regulations of their respective areas of competence;

3. Law on Mediation, applicable since 1 November 2006. It is expected for a non-trial solution of disputes to be stimulated, relieving the courts of a significant number of cases and providing better access to justice and prompt and efficient solving of disputes.

- 22 October 2006 – Chamber of Mediators is established.
- Administrative Board and Ethical Council are elected.
- 60 mediators have been elected. They are supposed to start working.
- A Regulation on Tariffs and Rewards and Compensation of costs of Mediators is in drafting procedure.
- The first Center for Mediation in Skopje is opened.
- The citizens' awareness on mediation is raised and a successful implementation is expected.
- The Minister of Justice has held two working sessions with the mediators.

4. Implementation of the Law on Misdemeanor

It is expected that the number of unsolved cases in the courts to be drastically decreased.

- Two by-laws foreseen by the Law are in drafting procedure
- There is an ongoing intense activity for harmonizing the penal provisions of many laws with the law on Misdemeanor.
- For successful implementation of the law, the Ministry of Justice has organized two professional discussions among misdemeanor judges and representatives of the administration bodies.

5. Law on Notary Services

- The Ministry of Justice held a working session with all notaries in RM, where issues and problems related to realizing the notary services were discussed.
- Working group for drafting amendments and supplements to the law is established.
- An oversight of the work of the Chamber of Notaries and a number of notaries is performed. The oversight of this kind was not conducted in

the previous period, which resulted with significant irregularities in exercising the notary services.

IV. FINALIZING THE LEGAL FRAMEWORK

Two of the laws essential for the judicial reform process were not adopted. Therefore the Ministry of Justice has prepared the:

1. Draft Law on Public Prosecution Office – now distributed to several bodies and organizations for their opinion.

This Law foresees the strengthening of the authorizations of the public prosecutor in the pre-investigating and investigating procedure, undertaking measures for identifying and prosecuting the perpetrators of criminal acts related to organized crime and corruption, and increasing the competence of the PP in regard to other state bodies, in terms of managing and coordinating the authorized officials from the MoI and other bodies.

2. Draft Law on Council of Public Prosecutors

An extensive discussion on the draft law took place where stakeholders of all areas were invited. The opinion of the OSCE and other international organizations were taken into consideration.

In the procedure of drafting the two laws, experts' opinions have been obtained and round tables took place, where possible solutions implemented in the laws were discussed.

V. ADOPTED LAWS AND LAWS (PENDING) IN GOVERNMENTAL AND PARLIAMENTARY PROCEDURE

The Ministry of Justice, in the process of realizing the activities under its competence, especially the realization of the judicial reform and the efficient prevention of organized crime and corruption, has drafted and proposed several laws of which some are adopted and the remaining are still in Parliamentary and Governmental procedure.

1. **Law on Preventing Corruption** (Official Gazette 28/02 and 46/06) – amendments and supplements from 24 November 2006.
2. **Law on Prevention of Conflicts of Interest** (second phase, Parliament procedure)
3. **Law on Enforcement** (amendments and supplements) - adopted by Parliament, and a new Tariffs regulation for the work of the enforcement agents)
4. **Law on Juvenile Justice** (first phase, Government procedure)

5. **Law on Bar** (Government procedure with a proposal for urgent procedure adoption)
6. **Law on Mediation** – amendments and supplements – (Parliament procedure)
7. **Draft Law on International Private Law** is determined by the Government
8. **Draft Law on Cooperation with the ICTY** (submitted for opinion to the ICTY and OSCE; comments implemented and re-submitted for another opinion)

By-laws

- The **Court Rules of Procedure**, as the most important regulation concerning the work of the courts is expected to be adopted by the end of January 2007.

Many by-laws are already adopted:

- Other by-laws are in drafting procedure (14 rulebooks and decrees) – deadline for their adoption is 1 July 2007;
- Instruction on the manner for taking over cases between the courts
- Rulebook on the template and manner for issuing written certificates for donations in the public sector (working version, pending opinion from the Legislation Secretariat)
- Rulebook on the costs in the misdemeanor procedure
- Instruction on the lump sum in misdemeanor procedures
- Rulebook on the template and contents of the Attestation for an elected member of the Judicial Council (from the ranks of the judges);
- Attestation for an elected member of the Council from the rank of judges and a Template;

Information and analysis

There is analysis and information prepared for following the work of the courts in relation to applying the laws:

- Information on the situation with ongoing court cases against Republic of Macedonia
- Information on the urgent need for taking measures for harmonizing with the provisions of the Law on Misdemeanor
- Information on filed requests for compensation of damages to persons unjustifiably convicted and unlawfully deprived of liberty

- Information on the condition of court cases where Republic of Macedonia is one of the parties, represented by the Attorney General (or Public Attorney) of RM.
- Information on the court cases where verdicts on damages of above 1.000.000,00MKD were delivered from 2004 till now
- Information on unlawful procuring (lobbying) in Republic of Macedonia
- Analysis on the organization and functioning of the Public Attorney's Office and its future status based on comparative views
- Analysis of the conditions in the penitentiary institutions
- Analysis of the situation of the penitentiary in Tetovo
- Information on providing premises for the new Administrative Court of RM and the new Appellate Court in Gostivar
- Information on the organization and functioning of the Public Attorneys Office, with a special view on its future status
- Information on the situation with the court cases where Republic of Macedonia and the state bodies are concerned parties

VI. SOLUTIONS FOR DECREASING THE UNSOLVED CASES

1. Court specialization

- Establishing specialized departments for handling organized crime cases in 5 basic courts (Skopje 1, Tetovo, Strumica, Shtip and Bitola by 1 April 2007)
- Secession of the basic courts Skopje 1 and Skopje 2, and transfer/re-allocation of cases in accordance with the decision of the Judicial Council of Republic of Macedonia.

2. **New Administrative Court** that is supposed to start working in May 2007; Law on Courts and Law on Administrative disputes foresee its establishment. Administrative disputes will be transferred under the competence of this court, diminishing the workload of the Supreme Court that handled such disputes up to now.

VII. INFORMATION TECHNOLOGY

- Software for the work of the courts and electronic following of cases is prepared.
- The IT system of the MoJ is equipped
- A WAN Connection has been set up between all judicial bodies in RM – (the only one in the region connecting 74 institutions)
- Software applications for the Judicial Council of RM, the prison administration and the Public Prosecution Offices are developed
- Software application LDBIS (Legal Data Base) is developed

- Draft version on the Strategy for IKT (trans.comm.: abbreviation not clear) in the Judiciary is prepared.
- The Government provided funds for engaging personnel for the IKT Sector in the MoJ (consent for hiring 12 IT professionals is made)

This is just a part of the activities undertaken by the Ministry of Justice in compliance with the programmatic goals of the Government of Republic of Macedonia in this area. The activities are undertaken with the required intensity and quality and are of exquisitely great significance to the establishing an efficient judicial system and successful prevention of organized crime and corruption.
